IN THE HIGH COURT OF BOMBAY AT GOA

APPEAL UNDER E.S.I. ACT NO. 18 OF 2006

1. The Regional Director,
   Employees State Insurance Corporation,
   Defence Colony,
   Porvorim, Goa.

2. Recovery Officer,
   Empliyees State Insurance Corporation,
   Defence Colony,
   Porvorim, Goa. .... Appellants

Versus

Calangute Service Station,
Naika Wado, Calangute, Bardez-Goa.
Represented by sole proprietor
Smt. Ligia Goes Proenca. .... Respondent

Mrs. A.A. Agni, Advocate for the Appellants.

Shri G.K. Sardessai with Shri V. Palekar, Advocates for the Respondent.

CORAM : **P.V. KAKADE, J.**

DATE : **28th NOVEMBER, 2006**

ORAL JUDGMENT :

Heard the learned Counsel for both the parties. Rule. Rule made returnable forthwith.

2. This is an appeal preferred against the judgment and order passed by the Presiding Officer, ESI Court, Panaji, allowing the application filed by the present respondent under Section 75 of the Employees State Insurance Act, 1948 (herein after called as 'the said Act').

3. The respondent-applicant made an application consequent to the order dated 27/08/1996 passed by the appellant-Corporation who claimed contribution to the tune of Rs. 48,189/- for the period from 4/92 to 9/95 with interest amounting to Rs. 17,142/-. By order dated 31/10/1997, the Corporation had claimed contribution for Rs. 10,098/- for further period of 10/96 to 3/97 with interest amounting to Rs. 970/-.

4. The case of the respondent in short was that Inspector had visited its establishment on 28/1/1993 and had reported that 8 employees were employed by the principal employer and 4 employees were employed by one D'Costa and 5 employees were employed by Joseph Rodrigues and that in all 17 employees were working in the establishment as on 28/1/1993. By letter dated 20/7/1993, the respondent informed the Corporation that at no point of time had the employer employed more than 8 employees. According to the respondent, said D'Costa and Joseph

Rodrigues had not employed any employees on the applicant's establishment and that the Inspector of the Corporation visited the establishment and perused the records and submitted the report dated 16/3/1994, which also was challenged and, hence, the application came to be made.

5. The respondent contested the application denying the allegations. The learned lower Court framed issues and came to the conclusion on the basis of available evidence that the applicant proved that it was not covered under the provisions of the ESI Act and, hence, is not liable to pay any contribution. The evidence recorded by the lower Court was on the basis of available evidence which is seen to be properly discussed. It was concluded by the lower Court that the evidence of witness of the present appellant merely indicated that he did not know the extent of the applicant's premises and that he had not verified whether the place wherein said D'Costa and Rodrigues were carrying on the work of repairs/service station was within the premises in possession of the applicant or not.

6. Be as it may, the fact remains that there is no substantial

question of law involved in this matter and the issues involved are issues of fact, which are properly appreciated and answered by the lower Court and, therefore, it would brook no interference. In the result, appeal stands dismissed with no order as to costs.

P.V. KAKADE, J.

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